

**§ 208.10 Notices.**

(a) The MMS shall notify each operator, by certified mail, of the Secretary's decision to take royalty oil in kind. This notice shall be mailed at least 45 days in advance of the effective date of delivery and will specify delivery points for offshore oil for OCS leases issued after September 1969.

(b) Deliveries of royalty oil may be partially terminated only with the written approval of the Director, MMS.

(c) Before terminating the delivery of royalty oil taken in kind, MMS, if possible, will notify each operator by certified mail of the change in requirements at least 30 days in advance of the effective date.

(d) After MMS notification that royalty oil will be taken in kind, the operator shall be responsible for notifying each working interest on the Federal lease. As soon as practicable after the date of each royalty oil sale, MMS will publish in the FEDERAL REGISTER a notice of the leases from which royalty oil will be taken, the purchasers of the royalty oil, and the leases from which royalty oil deliveries will be discontinued on terminated contracts.

(e) A purchaser cannot transfer, assign, or sell its rights or interest in a royalty oil contract without written approval of the Director, MMS. If the purchaser changes ownership or its assets are sold or liquidated for any reason, it cannot transfer, assign, or sell its rights or interest in the royalty oil contract without written approval of the Director, MMS. Without express written consent from MMS for a change in ownership, the royalty oil contract shall be terminated. The successor company must meet the definition of an eligible refiner in § 208.2 of this part for MMS to consider assignment of the royalty oil contract.

**§ 208.11 Surety requirements.**

(a) The eligible purchaser, prior to execution of the contract, shall furnish an "MMS-specified surety instrument," in an amount equal to the estimated value of royalty oil that could be taken by the purchaser in a 99-day period, plus related administrative charges. The MMS may require the purchaser to increase the amount of the surety instrument when necessary

to protect the Government's interest or may allow the purchaser to decrease the amount of the surety instrument where necessary to further the purposes of the Royalty-in-Kind Program.

(b) If a letter of credit is furnished as the surety instrument, it must be effective for a 9-month period beginning the first day the royalty oil contract is effective, with a clause providing for automatic renewal monthly for a new 9-month period. The purchaser or its surety company may elect not to renew the letter of credit at any monthly anniversary date, but must notify MMS of its intent not to renew at least 30 days prior to the anniversary date. The MMS may grant the purchaser 45 days to obtain a new surety instrument. If no replacement surety instrument is provided, MMS will terminate the contract effective at least 6 months prior to the expiration date of the letter of credit. Notwithstanding the above provisions, the letter of credit also may contain a clause providing for automatic termination 6 months after the royalty oil contract terminates. If a certificate of deposit is furnished as the surety instrument, it must be effective for the life of the contract plus 6 months after the royalty oil contract terminates.

(c) For the purposes of this section, an "MMS-specified surety instrument" means either: an MMS-specified surety bond, an MMS-specified irrevocable letter of credit, or a financial institution book-entry certificate of deposit.

(d) The "MMS-specified surety instrument" shall be in a form specified by MMS instructions or approved by MMS. A bond must be issued by a qualified surety company that has been approved by the Department of the Treasury. An irrevocable letter of credit or a certificate of deposit must be from a financial institution acceptable to MMS. The MMS will use a bank rating service to determine whether a financial institution has an acceptable rating to provide a surety instrument deemed adequate to indemnify the Government from loss or damage.

(e) All surety instruments must be in a form acceptable to MMS and must include such other specific requirements